

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MEMORANDUM PURSUANT TO LOCAL RULE 116.5

The United States of America, by and through its undersigned attorneys hereby files this memorandum. The government has provided a copy to Vincent Bongiorni, Esq., counsel for Defendant.

1. The Government has provided or made available all of its discoverable information. There are no outstanding discovery requests from the Defendant in this case. The Defendant has not provided any discovery to the government.

2. The parties do not anticipate additional discovery as the result of future receipt of information.

3. The defendants do not intend to raise a defense of insanity or public authority.

4. The government has requested notice of alibi by the defendants and there have been no response by the Defendant

5. The Defendant has not yet filed but may file, a motion to dismiss, or suppress, or other motion requiring a ruling by the District Court before trial pursuant to Fed. R. Crim. Pro.

12(c).

6. The parties request this Court to set a date for Defendant's motion to suppress.

7. The parties are not currently engaging in plea negotiations.

8. The parties agree that there are periods of excludable delay. The parties agree that the time frame from the date of arraignment, February 26, 2004, until the date the Court ruled on disputed discovery issues, October 20, 2004, should be excluded. On July 13, 2004, this Court ordered, upon the government's assented to motion (Docket #22), that the time from arraignment until July 13, 2004 should be excluded in the interests of justice. Since July 13, 2004, until October 20, 2004, the parties move to exclude the time because the Defendants' contested discovery motions were open and contested throughout this time period. The Court resolved the final discovery dispute on October 20, 2004. 18 U.S.C. 3161(h)(1)(F). From October 20, 2004 until December 7, 2004 should be excluded upon Defendant's Motion to Compel Discovery. 18 U.S.C. 3161(h)(1)(F).

Therefore, as of the day of the Status Conference on December 7, 2004, no time has run on the Speedy Trial clock.

9. In the event that a trial is necessary the trial will last approximately 4 days.

10. A date convenient with the Court should be

established for Pretrial Conference.

Filed this 7<sup>th</sup> day of December, 2004.

Respectfully submitted,

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United States Attorney

S/ PAUL HART SMYTH  
PAUL HART SMYTH  
Assistant United States Attorney

  
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Vincent Bongiorni, ESQ.  
Counsel for Defendant  
On behalf of defendant Mitchell: